



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ -OAR-2007-1158; FRL – 9904-81-OAR]

### **Proposed Information Collection Request; Comment Request; Alternative Affirmative Defense Requirements for Ultra-low Sulfur Diesel**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), “**Alternative Affirmative Defense Requirements for Ultra-low Sulfur Diesel**” (EPA ICR No.2364.04, OMB Control No. 2060-0639 to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through March 31, 2014. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ -OAR-2007-1158, online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Geanetta Heard, Fuels Compliance Center, 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-343-9017; fax number: 202-565-2085; email address: [heard.geanetta@epa.gov](mailto:heard.geanetta@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the

submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* With this ICR renewal, EPA is seeking permission to continue recordkeeping and reporting requirements under the ultra-low sulfur diesel (ULSD) fuel regulations. Where a violation of the 15 ppm sulfur standard is identified at a retail outlet, the retailer responsible for dispensing the noncompliant fuel is deemed liable, as well as the refiner(s), importer(s) and distributor(s) of such fuel. The highway diesel regulations further provide, however, that any person deemed liable can rebut this presumption by establishing an affirmative defense that includes, among other things, showing that it conducted a quality assurance sampling and testing program as prescribed by the regulations. This ICR covers burdens and costs associated with provisions that allow refiners and importers of ULSD an alternative means of meeting the affirmative defense requirements in the ULSD regulations by participating in a nationwide diesel fuel sampling and testing program. The reporting burden covered by this ICR renewal relates to reports that refiners, importers and distributors, have to submit in the event they have a non-complying sulfur test result.

*Form Numbers:* None.

*Respondents/affected entities:* 5.

*Respondent's obligation to respond:* mandatory

*Estimated number of respondents:* 5 (total).

*Frequency of response:* On occasion

*Total estimated burden:* 80 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$9,200 (per year), includes no annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is no increase of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The respondent universe and responses

decreased in this collection due to a higher than expected compliance rate. There was an increase in cost to the industry per response of \$704 due to more accurate numbers used to calculate the industry burden and to account for inflation. There was a decrease in cost to the industry overall of \$13,520 due to the reduction of expected responses from 20 to five.

Dated: December 20, 2013.

Byron Bunker, Director,  
Compliance Division,  
Office of Transportation and Air Quality,  
Office of Air and Radiation.

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